

**CALIFORNIA COASTAL COMMISSION**

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**W15e**

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Staff: Ryan Todaro-LB  
Staff Report: August 16, 2007  
Hearing Date: September 5-7, 2007  
Commission Action:

**STAFF REPORT: REGULAR CALENDAR****APPLICATION NUMBER:** 5-07-085**APPLICANT:** Lennar Homes**AGENTS:** Mannatt, Phelps & Phillips  
Attn: Susan HoriGovernment Solutions  
Attn: Marice White**PROJECT LOCATION:** 900 Newport Center Drive, Newport Beach  
(Orange County)**PROJECT DESCRIPTION:** Demolition of existing tennis complex and construction of 79 residential townhome units on a 4.25 acre site, including 3 buildings ranging from 50-60 feet in height above grade, totaling approximately 205,679 square feet and approximately 97,231 square feet of subterranean parking, landscaping, hardscaping, and open space, and payment of a \$5,000,000.00 mitigation fee.

Lot Area	4.25 acres
Building Coverage	104,510 square feet
Pavement Coverage	20,900 square feet
Landscape Coverage	59,720 square feet
Parking Spaces	201
Zoning	Multiple-Family Residential
Plan Designation	Medium Density Residential
Ht. Above Finished Grade	Maximum of 60 feet

**SUMMARY OF STAFF RECOMMENDATION:**

The major issues raised by this project include impacts upon visitor serving opportunities and commitment of the site to a lower priority residential use, water quality impacts and the use of appropriate landscaping. Commission staff recommends that the Commission approve the proposed development with five (5) special conditions addressing: 1) submittal of a revised landscaping plan; 2) conformance with geotechnical recommendations; 3) storage of construction materials, mechanized equipment and removal of construction

debris; 4) submittal of a final water quality management plan; 5) payment of an in-lieu mitigation fee to offset the impacts upon visitor serving opportunities at the site.

**SUBSTANTIVE FILE DOCUMENTS:**

1. Preliminary Geotechnical Evaluation, Proposed Marriott Condominiums, 900 Newport Center Drive, City of Newport Beach, California, prepared by Petra Geotechnical, Inc., 11/6/03
2. City of Newport Beach Santa Barbara Condominium Project Traffic Impact Analysis (Revised), prepared by Kunzman Associates, 2/14/05
3. Mitigated Negative Declaration for the Proposed Santa Barbara Condominiums Project, prepared by David Evans and Associates, Inc., 7/15/05
4. City of Newport Beach City Council Staff Report, Santa Barbara Condominiums, 11/22/05
5. Santa Barbara Condominiums Preliminary Water Quality Management Plan, prepared by Fuscoe Engineering, 4/27/06
6. City of Newport Beach Approval in Concept No. 0436-2006, 2/28/07
7. City of Newport Beach Land Use Plan Amendment NPB-MAJ-1-06 Part A, 6/21/07
8. City of Newport Beach Resolution No. 2007-56, 7/24/07

**LIST OF EXHIBITS:**

1. Regional Map
2. Vicinity Map
3. Project Plans/Elevations
4. Letter From The Newport Beach Country Club
5. Letter From Applicant Regarding In-Lieu Fee

**STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the following resolution to **APPROVE** the coastal development permit application with special conditions by passing the following motion:

**MOTION:**                    ***I move that the Commission approve Coastal Development Permit No. 5-07-085 pursuant to the staff recommendation.***

**STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**I. Resolution: Approval with Conditions**

The Commission hereby **APPROVES** a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

**II. Standard Conditions**

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

**III. Special Conditions****1. Revised Landscaping Plan**

A. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, in a form and content acceptable to the Executive Director, two (2) sets of a revised landscaping plan prepared by an appropriately licensed professional which demonstrates the following:

- (1) The plan shall demonstrate that:

- a. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or as may be identified from time to time by the State of California shall be utilized on the property. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property. Any existing landscaping within the limits of the proposed project that doesn't meet the above requirements in this paragraph and those requirements listed in subsection b below shall be removed;
- b. With the exception of plants used in drainage swales, all plants employed on the site shall be drought tolerant, (low water use) plants identified by U. C. Davis and the Water Resources Board;
- c. All planting will be completed within 60 days after completion of construction;
- d. All vegetation shall be maintained in good growing condition throughout the life of the project, and whenever necessary, shall be replaced with new plant materials to ensure continued compliance with the landscaping plan.

(2) The plan shall include, at a minimum, the following components:

- a. A map showing the type, size, and location of all plant materials that will be on the developed site, the irrigation system, topography of the developed site, and all other landscape features;
- b. A schedule for installation of plants.

B. The permittee shall undertake development in accordance with the approved plan. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

## **2. Conformance with Geotechnical Recommendations**

A. All final design and construction plans, including foundations, grading and drainage plans, shall be consistent with all recommendations contained in Preliminary Geotechnical Evaluation, Proposed Marriott Condominiums, 900 Newport Center Drive, City of Newport Beach, California, prepared by Petra Geotechnical, Inc., 11/6/03. Such recommendations shall be incorporated into all final design and construction plans.

- B. **PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the Executive Director's review and approval, evidence that a licensed certified engineering geologist has reviewed and approved all final design and construction plans and certified that each of those final plans is consistent with all of the recommendations specified in the above-referenced geologic evaluation approved by the California Coastal Commission for the project site.
- C. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. **Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris**

The permittee shall comply with the following construction-related requirements:

- (a) Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of construction-related materials, and to contain sediment or contaminants associated with construction activity, shall be implemented prior to the on-set of such activity;
- (b) No construction materials, debris, or waste shall be placed or stored where it may enter a storm drain or be subject to tidal erosion and dispersion;
- (c) All trash and debris shall be disposed in the proper trash or recycling receptacle at the end of every construction day.
- (d) Construction debris and sediment shall be properly contained and secured on site with BMPs, to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain or tracking. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;
- (e) Construction debris and sediment shall be removed from construction areas as necessary to prevent the accumulation of sediment and other debris which may be discharged into coastal waters. All debris and trash shall be disposed of in the proper trash and recycling receptacles at the end of each construction day;
- (f) The discharge of any hazardous materials into any receiving waters shall be prohibited;

- (g) A pre-construction meeting should be held for all personnel to review procedural and BMP/GHP guidelines;
- (h) All BMPs shall be maintained in a functional condition throughout the duration of the project.
- (i) Debris shall be disposed at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required.

**4. Water Quality Management Plan (WQMP)**

- A. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the permittee shall submit for the review and approval of the Executive Director, two (2) copies of a Final Water Quality Management Plan (WQMP) for the post-construction project site, prepared by a licensed water quality professional, and shall include plans, descriptions, and supporting calculations. The WQMP shall be in substantial conformance with the Santa Barbara Condominiums Preliminary Water Quality Management Plan, prepared by Fuscoe Engineering, 4/27/06. The plan shall be in conformance with any geotechnical recommendations concerning site and development stability, where applicable. In addition, the plan shall be in substantial conformance with the following requirements:
1. The WQMP shall incorporate appropriate structural and non-structural Best Management Practices (BMPs) (site design, source control and treatment control) into the development, designed to reduce, to the maximum extent practicable, the volume, velocity and pollutant load of stormwater and dry weather flows leaving the developed site.
  2. Post-construction structural BMPs (or suites of BMPs) shall be designed to treat, infiltrate or filter the amount of stormwater runoff produced by all storms up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor (i.e., 2 or greater), for flow-based BMPs.
  3. Impervious surfaces, especially directly connected impervious areas, shall be minimized, and alternative types of pervious pavement considered for use where feasible, and if practicable.
  4. Irrigation and the use of fertilizers and other landscaping chemicals shall be minimized through the use of low-maintenance landscaping and efficient irrigation technology or systems.

5. Trash, recycling and other waste containers, as necessary, shall be provided. All waste containers anywhere within the development shall be covered, watertight, and designed to resist scavenging animals.
  6. Where feasible and as practicable, the first flush runoff from rooftop downspouts and/or parking lot areas shall be directed and dispersed into permeable landscaped areas such as over turf, through a bioswale, or into an infiltration bed engineered to accept the runoff in a non-erosive manner.
  7. The permittee shall arrange for regularly scheduled vacuum sweeping of the parking areas, in order to prevent dispersal of pollutants that might collect on those surfaces.
  8. The permittee shall not spray down or wash down the parking lot unless the water used is directed through the sanitary sewer system or a filtered drain.
  9. All structural and/or treatment control BMPs shall be designed, installed, and maintained for the life of the project in accordance with well-recognized and accepted design principles and guidelines, such as those contained in the California Stormwater Quality Association Best Management Practice Manuals.
  10. At a minimum, all BMP traps/separators and/or filters shall be inspected and cleaned/repared or otherwise maintained in accordance with the following schedule: (1) prior to the start of the winter storm season, no later than October 15th each year, inspected monthly thereafter for the duration of the rainy season (October 15th -April 30), and cleaned/maintained as necessary based on inspection and, (3) inspected and maintained where needed throughout the dry season.
  11. Debris and other water pollutants removed from structural BMP(s) during clean out shall be contained and disposed of in a proper manner.
  12. It is the permittee's responsibility to maintain the drainage system and the associated structures and BMPs according to manufacturer's specifications.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**5. In-Lieu Fee**

- A. The applicant or any successor(s) in interest to the subject property shall pay a fee to the Crystal Cove Alliance (herein "Alliance"), in accordance with the agreement required in subsection B below, in an amount not less than \$5,000,000.00, to be used for the protection, enhancement and provision of lower-cost visitor-serving uses at Crystal Cove State Park, Newport Beach, California. If the protection, enhancement and provision of lower-cost visitor-serving uses at Crystal Cove State Park becomes infeasible (for example, if the available funds are insufficient to complete such a project), the applicant shall submit an application to amend the Coastal Development Permit. The Executive Director shall determine if the project is infeasible and if so, will make a determination identifying a different feasible project appropriate for the use of this in-lieu fee.
- B. **PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT**, but only after the Executive Director of the Coastal Commission has indicated, in writing, that the Commission has entered into an agreement with the Alliance (the "Agreement"), the applicant shall provide to the Alliance, through a financial instrument subject to the review and approval of the Executive Director, a fee in an amount not less than \$5,000,000.00 as described in subsection A, payable to the Alliance. This fee shall be used for the purposes described in subsection A of this condition in accordance with the terms and conditions of the Agreement, which, at a minimum, shall include the following provisions: 1) the Alliance shall submit a final plan for use of the funds to the Executive Director for review and approval within 24 months of the date on which the funds are transferred to the Alliance; 2) the final plan shall provide for Phase 2 of the ongoing Crystal Cove Alliance restoration effort of the Historic District at Crystal Cove State Park and which is presently contemplated to provide for the completion of the Outdoor Educational Commons (Cottages 40, 42, 43 and 44), the Beach Museum (Cottage 13), Cottage 5, Cottage 45, the garages and creek restoration within 36 months of approval of the final plan by the Executive Director; 3) the Alliance must obtain all necessary regulatory permits and approvals, including but not limited to a coastal development permit, for the restoration effort prior to commencement of the project; 4) the funds must be deposited in a separate and independent interest bearing account created solely to manage the funds as well as provisions to limit the use of funds for administrative costs (which shall not exceed 5% of the total funds transferred to the Alliance); 5) a deadline not to exceed 5 years from the date of transfer of the funds to the Alliance by which the funds shall be used by the Alliance to complete the project identified in the final plan, along with provisions to address any failure to complete the project, including but not limited to, transfer of the funds to an alternate entity able to implement the final plan, or, if approved by an amendment to this coastal development permit, to apply the funds to an alternative project that provides lower cost visitor serving opportunities in the coastal area of Orange or Los Angeles County.

#### **IV. Findings and Declarations**

The Commission hereby finds and declares:

##### **A. Project Description**

The 4.25 acre subject site is located at 900 Newport Center Drive in Newport Beach, Orange County, approximately 1 mile from the coast (See Exhibits #1 & #2). The project site is surrounded by multi-family residential and commercial properties to the east, the Newport Beach Country Club golf course to the west, the Newport Beach Police and Fire Stations and an office building for the Newport Beach Chamber of Commerce to the north and the Newport Beach Marriott Hotel to the south.

The applicant is proposing to demolish an existing private tennis complex, which includes 8 tennis courts, clubhouse and parking lot and construct 79 residential townhome units within 3 buildings ranging from 50-60 feet in height above grade, totaling approximately 205,679 square feet and approximately 97,231 square feet of subterranean parking, 59,720 square feet of landscaping, 21,300 square feet of hardscaping, and approximately 79,140 square feet of open space (See Exhibit #3). In addition, the applicant proposes to pay a \$5,000,000.00 fee to mitigate for the loss of visitor-serving land (See Exhibit #5).

On July 10, 2007, the Commission approved City of Newport Beach Land Use Plan Amendment NPB MAJ 1-06 (Part A) to change the land use designation of the 4.25 acre project site from Visitor-Serving Commercial to Medium Density Residential. The City adopted the Land Use Plan Amendment, as modified by the Commission, on July 24, 2007. The recently adopted changes to the Land Use Plan allow for the construction of the proposed project.

##### **B. Public Access & Recreation**

Section 30213 of the Coastal Act states, in part:

*Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.*

Section 30222 of the Coastal Act states:

*The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.*

Applicable Land Use Plan Policies from the certified Coastal Land Use Plan

- 2.3.1-3 *On land designated for visitor-serving and/or recreational uses, give priority to visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation over other commercial uses, except for agriculture and coastal-dependant industry.*
- 2.3.1-8 *LCP Amendment No. 2005-001 (NPB-MAJ-1-06 part A) to the Coastal Land Use Plan changing a portion of land, not to exceed 4.25 acres in size, designated Visitor-Serving Commercial (CV) in Newport Center to a residential designation shall require a payment of a fee to mitigate for the loss of visitor-serving land. The mitigation fee shall be used for the protection, enhancement and provision of lower-cost visitor-serving uses at Crystal Cove State Park. The mitigation fee shall be in the amount of \$5,000,000.00 (five million dollars) to off-set the loss of the priority land use in Newport Center. The mitigation fee shall be paid prior to issuance of any coastal development permit granted for any residential project within the newly designated area and to an entity, identified by the permitting agency, capable of implementing the mitigation at Crystal Cove State Park. Until paid in accordance with the terms and conditions of the coastal development permit, the amount shall be increased every July 1st by an amount calculated on the basis of the percentage change from the year 2007 in the California Consumer Price Index for Urban Consumers as determined by the entity that grants the coastal development permit.*
- 2.3.3-3 *Encourage visitor-serving and recreational developments that provide public recreational opportunities.*

The City of Newport Beach attracts visitors year round due to its unique recreational opportunities, large harbor and marina facilities and its coastal amenities and the City maintains a generally strong commercial base as a result. Furthermore, like many beach cities, Newport Beach also receives an annual influx of visitors during the summer months. However, the project site does not provide direct public access to the sea due to its location and distance of approximately 1 mile from the coast and nearby Newport Harbor.

On July 10, 2007, the Commission approved City of Newport Beach Land Use Plan Amendment NPB MAJ 1-06 (Part A) to change the land use designation of the 4.25 acre project site from Visitor-Serving Commercial to Medium Density Residential. The approved land use change allows for the construction of medium density residential development on the subject property. The proposed project is the corresponding coastal development permit application to this LUP amendment.

Like the proposed project, which will cause the demolition of a visitor serving use and construction of a lower priority residential use, the major issues raised by the LUP amendment request were adequate provision of visitor-serving commercial development and public access. The proposed demolition of a visitor serving commercial use and construction of residential development has an adverse affect on priority visitor-serving opportunities in the area. Residential development is a low priority use within the Coastal Zone. However, with the proposed payment of a \$5 million mitigation fee, consistent with the new Land Use Plan policy cited above that requires a payment of a fee to mitigate for

the loss of visitor-serving land, the proposed development would not have an adverse affect on priority visitor-serving opportunities in the area.

The mitigation fee is for the protection, enhancement and provision of lower-cost visitor-serving uses at Crystal Cove State Park in the amount of \$5,000,000.00 (five million dollars) to off-set the loss of the priority land use in Newport Center. This mitigation fee will fund Phase 2 of the ongoing Crystal Cove Alliance restoration effort of the Historic District at Crystal Cove State Park, which is presently contemplated to provide for the completion of the Outdoor Educational Commons (Cottages 40, 42, 43 and 44), the Beach Museum (Cottage 13), Cottage 5, Cottage 45, the garages and creek restoration. Therefore, to off set the loss of priority visitor serving opportunities at the subject site, and to be consistent with the Commission's prior action in approving the LUP amendment, the Commission imposes Special Condition No. 5, which specifies the manner in which the applicant must pay the fee towards the protection, enhancement and provision of lower-cost visitor-serving uses at Crystal Cove State Park.

Therefore, as conditioned, the development will not have any new adverse impact on recreational opportunities in the Coastal Zone. Thus, the proposed development conforms with Sections 30213 and 30222 of the Coastal Act.

### **C. Water Quality**

Section 30230 of the Coastal Act states:

*Marine resources shall be maintained, enhanced, and, where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.*

Section 30231 of the Coastal Act states:

*The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.*

The proposed development has a potential for a discharge of polluted runoff from the project site into coastal waters. Pollutants commonly found in urban runoff include petroleum hydrocarbons, oil and grease from vehicles, heavy metals, sediment, nutrients, and chemicals associated with herbicides and pesticides, trash, bacteria and pathogens. The discharge of excessive polluted runoff into coastal waters can have cumulative

adverse impacts on coastal resources and water quality. Furthermore, runoff from the project site will enter the storm drain system and ultimately discharge to Newport Bay, which is a State Water Resources Control Board 303d listed impaired waterbody.

In order to minimize the potential impacts of urban runoff and hydrologic modification of the site on coastal resources as a result of the development, the Commission finds it necessary to require the incorporation of management measures and Best Management Practices designed to control the volume, velocity and pollutant load of stormwater leaving the developed site. The applicant has submitted a Preliminary Water Quality Management Plan (WQMP), dated April 27<sup>th</sup> of 2006. The Plan contains a list of BMPs which includes, site design BMPs, source control BMPs, and treatment control BMPs. To ensure that the Final WQMP is consistent with the Preliminary WQMP, the Commission imposes Special Condition No. 4, which requires the applicant to submit a final version of the WQMP which includes measures to address the volume and velocity of stormwater leaving the developed site, as well as the pollutant load contained in runoff. Other requirements include, but are not limited to, a specification on the appropriate design standard for sizing BMPs, vacuum sweeping of the parking lot area, and maintenance requirements for drainage features.

Additionally, in order to address potential water quality related impacts associated with the construction phase of the proposed development the Commission has imposed Special Condition No. 3, which requires the applicant to comply with construction-related requirements related to storage of construction materials, mechanized equipment and removal of construction debris.

Other sources of polluted runoff can include dry weather runoff resulting from excessive irrigation, which sometimes occurs from installation of landscaping with a high-water demand. Plants with a high-water demand are typically not well-suited to the Mediterranean climate of southern California, and therefore often require intense fertilization and application of pesticides/herbicides as a maintenance regime, in addition to regular irrigation. Thus, this type of landscaping can add pollutants to both dry weather and stormwater runoff. Therefore, the use of drought tolerant plants or low-maintenance landscaping is a preferred alternative.

The term "drought tolerant" is equivalent to the terms "low water use" and "ultra low water use" as defined and used by "A Guide to Estimating Irrigation Water Needs of Landscape Plantings in California" prepared by University of California Cooperative Extension and the California Department of Water Resources dated August 2000 available at <http://www.owue.water.ca.gov/landscape/pubs/pubs.cfm>. The applicant has submitted a landscaping plan. Commission staff reviewed the submitted landscaping plan for drought tolerant vegetation and determined that *Ficus rubiginosa*, *Ficus microcarpa*, *Ficus nitida*, *Tristania conferta*, *Citrus spp.*, *Ligustrum japonicum*, *Buxus japonica*, *Rapheolepis indica* 'Clara', *Agapanthus orientalis*, *Leptospermum scoparium*, *Strelitzia reginae*, *Strelitzia nicolai* are not drought tolerant.

Invasive plants can invade a riparian area and displace native plants, impeding restoration and preservation efforts. Invasive plants are generally those identified by the California Invasive Plant Council (<http://www.cal-ipc.org>) and California Native Plant Society

(www.CNPS.org) in their publications. Commission staff reviewed the submitted landscaping plan and determined that the plan does contain one invasive species of limited concern, *Olea europea*.

Therefore the Commission has imposed Special Condition No. 1 requiring the applicant to submit a revised landscaping plan for the review and approval of the Executive Director. The plan requires the applicant to plant non-invasive, drought tolerant vegetation on the site. Non-invasive, drought tolerant plants are used because they require little to no watering once they are established (1-3 years), they have deep root systems that tend to stabilize the soil, and are spreading plants that tend to minimize erosion impacts of rain and water run-off.

As conditioned, the Commission finds that the proposed development conforms with Sections 30230 and 30231 of the Coastal Act regarding the protection of water quality to promote the biological productivity of coastal waters and to protect human health.

#### **D. Visual Resources**

Section 30251 of the Coastal Act states:

*The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*

The proposed project is located in an urban area surrounded by an eight-story office building and two-story parking structure to the east, three four-story multi-family residential buildings to the northeast, a golf course to the north and west, and a fifteen/sixteen-story hotel to the south. The LUP identifies certain viewpoint and corridors for protection. The proposed project would not encroach upon or obstruct any of the identified viewpoints and corridors. Views of the ocean and scenic coastal views are limited from the proposed project site due to the existing surrounding developments.

The proposed project is compatible with the character and scale of surrounding development. The development is located within an existing developed area and, as conditioned, will be compatible with the character and scale of the surrounding area. Therefore, the Commission finds that the development, as conditioned, conforms with Section 30251 of the Coastal Act.

#### **E. Development Density and Transit**

Section 30250 of the Coastal Act states, in part:

*(a) New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the average size of surrounding parcels.*

Section 30252 of the Coastal Act states:

*The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.*

Section 30253 of the Coastal Act states, in part:

*New development shall:*

*(4) Minimize energy consumption and vehicle miles traveled.*

Section 30250 of the Coastal Act requires that new development be concentrated in existing developed areas where it can be accommodated without adverse effects on coastal resources. Section 30252 of the Coastal Act states that the location and concentration of development should maintain and enhance public access to the coast by facilitating the extension of transit service and minimizing the use of coastal access roads. Section 30253 indicates new development shall minimize energy consumption and vehicle miles traveled. Concentrating development in existing developed areas provides more opportunities for people to live near places they work and recreate, such as the beach, and, thereby, reduces impacts to coastal resources. Impacts to roads and vehicle miles traveled would be reduced by having a more intense stock of housing located closer to employment and recreational opportunities within the coastal zone. Also, by having a higher density development in an existing developed area, this places more people in a single location so that public transit service is facilitated, which then again aids in reducing the number of cars on streets and thus reduces impacts to coastal resources and public access.

Concentrating development in developed areas also has other cumulative benefits. It leads to less pressure to extend new development into undeveloped areas, which prevents sprawl, preserves open space and prevents adverse impacts to sensitive habitats.

The proposed development is adjacent to the Newport Transportation Center (providing access to regional transit), the Fashion Island Shopping Center and several large office complexes. Thus, the proposed project provides housing in an area that offers access to regional mass transit, employment and other commercial support areas. The project's development standard of 18.59 units per acre is consistent with the City's standards for Medium-Density Residential designation.

As mentioned previously, the project proposes to construct 79 townhome units with 201 parking spaces, which is consistent with the City's standards of providing 2 parking spaces per unit for residents and 0.5 parking spaces per unit for guests. Kunzman Associates conducted a traffic study, dated 2/14/05, which demonstrated that the project would not result in adverse impacts to overall traffic circulation within the general area of the proposed project.

By concentrating development in developed areas where it can be accommodated, sensitive coastal resources would be protected and preserved. Additionally, the location and concentration of development would maintain and enhance public access to the coast. Therefore, the Commission finds that the development, as proposed, conforms with Section 30250, 30252, and 30253(a) of the Coastal Act.

#### **F. Affordable Housing**

Section 30604 of the Coastal Act states, in part:

- (f) *The commission shall encourage housing opportunities for persons of low and moderate income.*
- (g) *The Legislature finds and declares that it is important for the commission to encourage the protection of existing and the provision of new affordable housing opportunities for persons of low and moderate income in the coastal zone.*

Encouraging the protection and provision of affordable housing is an important aspect of the Coastal Act. In enacting Public Resources Code §§ 30604(f) and (g), the Legislature clearly expressed the importance of protecting affordable housing in the Coastal Zone. Section 30607 of the Coastal Act requires that "any permit that is issued ..., pursuant to this chapter, shall be subject to reasonable terms and conditions in order to ensure that such development ... will be in accordance with the provisions of [the Coastal Act]." Sections 30604(f) and (g) are part of the Coastal Act, so the Commission is therefore required to ensure that proposed development is in accordance with §§ 30604(f) and (g). These provisions express the legislature's clear intent that the Commission shall encourage the protection of affordable housing.

Typically, multi-family residential units are less costly and more affordable than single-family residential units. As mentioned previously, the applicant is proposing to construct 79 townhome units. To be consistent with the goals, policies and programs of the City's Housing Element, the project is required to provide a minimum of 20% (16) of the total units to low and moderate income households. The applicant proposes to enter into an agreement with the City to provide these units off-site, within the City's limits. The agreement will be reviewed and approved by the City and will be executed and recorded prior to the recordation of the final tract map or the issuance of a building permit or grading permit for the proposed project. The Planning Commission required the affordable units to be constructed and completed prior to the issuance of any certificate of occupancy for the proposed project.

As proposed, the project does provide more affordable housing. By approving the project, the Commission acknowledges the importance of encouraging and protecting affordable housing.

### **G. Hazards**

Section 30253 of the Coastal Act states, in part:

*New development shall:*

- (1) *Minimize risks to life and property in areas of high geologic, flood, and fire hazard.*
- (2) *Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.*

The proposed development involves the construction of 79 residential townhome units within 3 buildings, totaling approximately 205,679 square feet and approximately 97,231 square feet of subterranean parking. Grading is estimated to include approximately 42,000 cubic yards of cut and 2,000 cubic yards of fill, resulting in 40,000 cubic yards of export, which will be taken to a landfill located outside of the coastal zone.

Recommendations regarding the construction of the proposed project, including foundations, grading and drainage plans, have been provided in the Preliminary Geotechnical Evaluation prepared by Petra Geotechnical, Inc., dated 11/6/03, which was submitted by the applicant. Adherence to the recommendations contained in this report is necessary to ensure that the proposed project assures stability and structural integrity, and neither creates nor contributes significantly to erosion, geologic instability, or destruction of the site or surrounding area.

Therefore, Special Condition No. 2 requires that the applicant conform to the geotechnical recommendations in the above mentioned geotechnical investigation. Only as conditioned

to incorporate and comply with the recommendations of the applicant's geotechnical consultant is the proposed project consistent with Section 30253 of the Coastal Act.

#### **H. Local Coastal Program**

Coastal Act section 30604(a) states that, prior to certification of a local coastal program ("LCP"), a coastal development permit can only be issued upon a finding that the proposed development is in conformity with Chapter 3 of the Act and that the permitted development will not prejudice the ability of the local government to prepare an LCP that is in conformity with Chapter 3. The Land Use Plan for the City of Newport Beach was effectively certified on May 19, 1982. The certified LUP was updated in October of 2005.

As mentioned previously, Land Use Plan Amendment NPB-MAJ-1-06 Part A was approved by the Commission on July 10, 2007. The amendment changed the land use designation of the 4.25 acre site from Visitor-Serving Commercial to Medium Density Residential. The City approved the Land Use Plan Amendment, as modified by the Commission, on July 24, 2007. The land use change allows for the construction of condominiums (or other medium density residential) on the subject property.

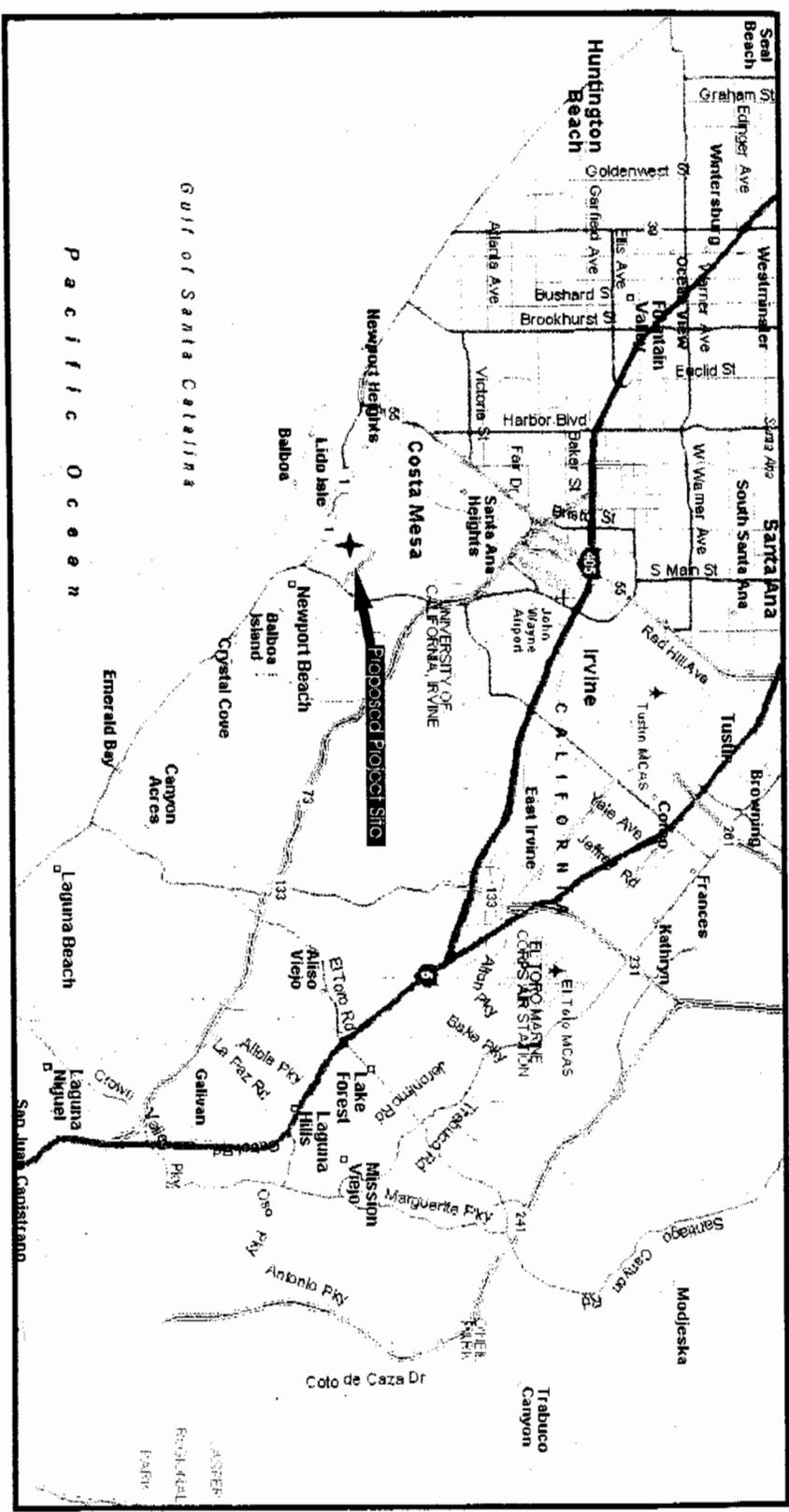
As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act and with the certified Land Use Plan for the area. Approval of the project, as conditioned, will not prejudice the ability of the local government to prepare an LCP that is in conformity with the provisions of Chapter 3 of the Coastal Act.

#### **I. California Environmental Quality Act (CEQA)**

Section 13096 of the California Code of Regulations requires Commission approval of a CDP application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect that the activity may have on the environment. The City of Newport Beach is the lead agency for purposes of CEQA and they prepared a Mitigated Negative Declaration, dated July 15, 2005. Mitigation measures have been incorporated into the project to reduce or avoid the project's potentially significant adverse impacts to less than significant levels regarding air quality, cultural resources, geology and soils, noise, public services, transportation/traffic, and utilities and service systems.

The Coastal Commission adopts additional mitigation measures to ensure that the proposed project will conform with the requirements of the Coastal Act. Mitigation measures, in the form of special conditions require submittal of a revised landscaping plan, conformance with geotechnical recommendations, storage of construction materials, mechanized equipment and removal of construction debris, submittal of a final water quality management plan and payment of an in-lieu mitigation fee. No further alternatives, or mitigation measures, beyond those imposed by this permit, would substantially lessen any

significant adverse impacts which the development would have on the environment. Therefore, the Commission finds that the proposed project, as conditioned, can be found consistent with the requirements of the Coastal Act to conform to CEQA.



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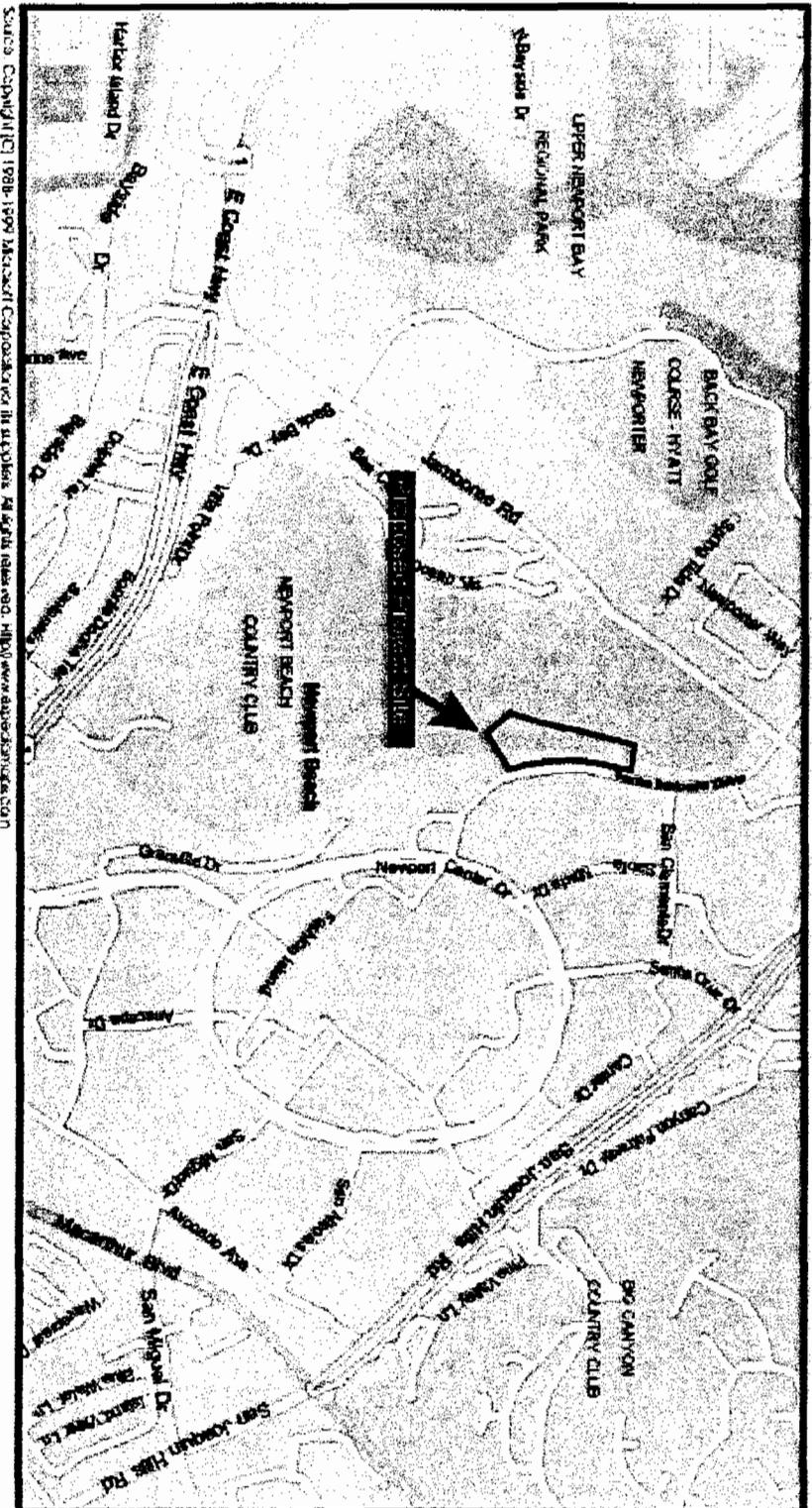
**Santa Barbara Condominiums Project**  
**Regional Map**



Figure  
 2-1

**COASTAL COMMISSION**  
 EXHIBIT #             
 PAGE   1   OF   1    
 S-07-085

Vicinity Map



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Santa Barbara Condominiums Project  
Vicinity Map



COASTAL COMMISSION  
S-07-085  
EXHIBIT # 2  
PAGE 1 OF 1



MASTER PLAN-SITE PLAN  
GARAGE LEVEL - A  
TENTATIVE TRACT MAP NO. 16774  
CITY OF NEWPORT BEACH, CALIFORNIA

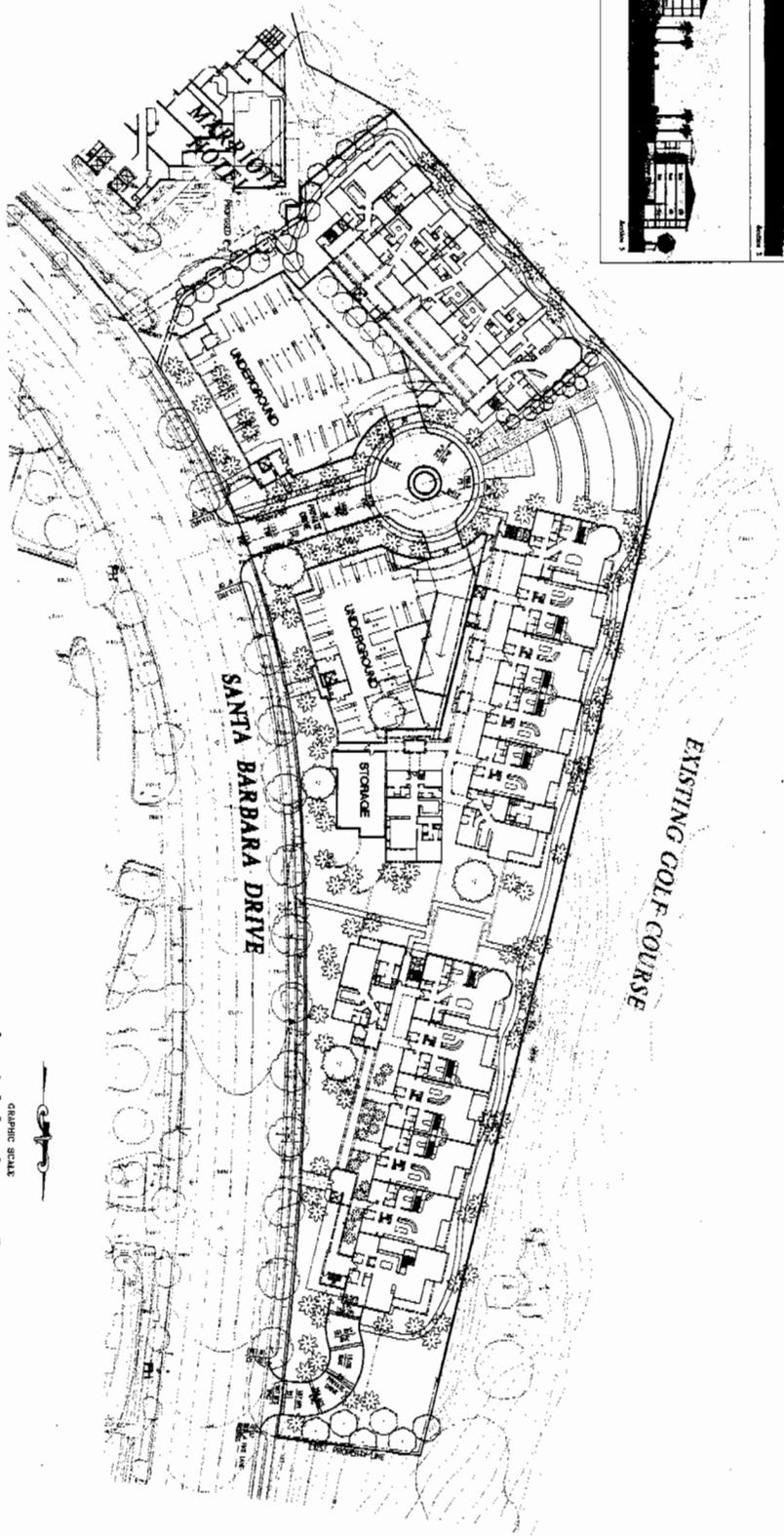
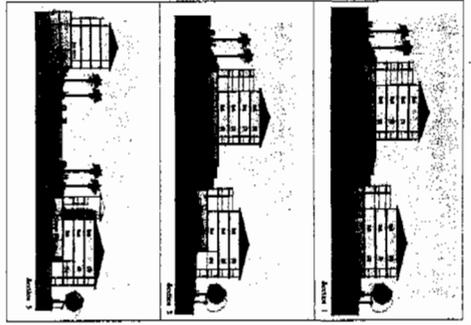


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Approved by: [Signature]  
City of Newport Beach, California  
City Engineer: [Signature]

**LENNAR**  
Lennar South Coast, Huntington Beach, CA  
3300 Main St., Huntington Beach, CA 92648  
(714) 248-8200

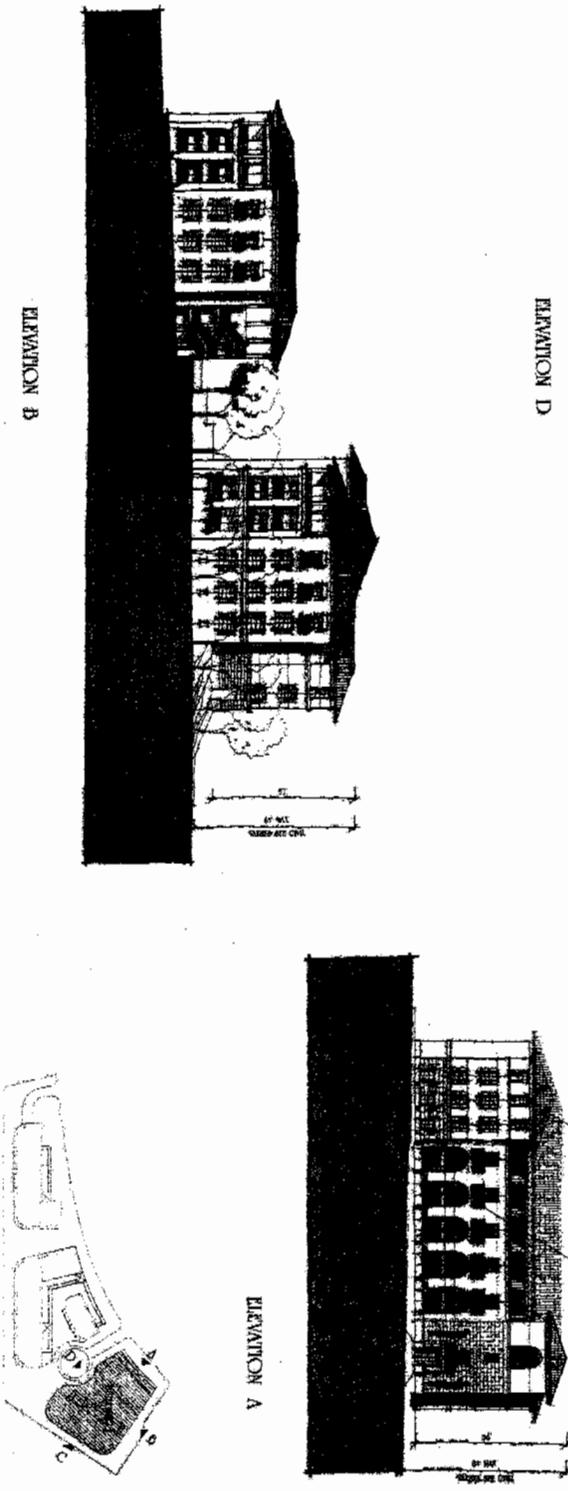
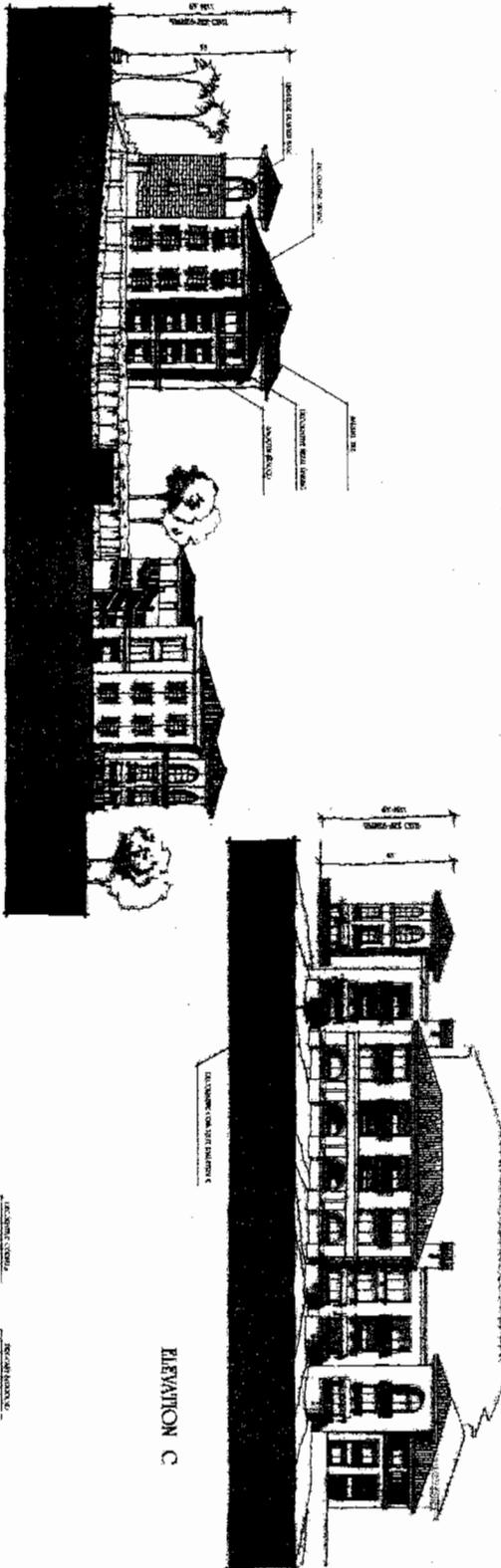
MASTER SITE PLAN  
GARAGE LEVEL - A  
TENTATIVE TRACT MAP NO. 16774  
NEWPORT BEACH, CALIFORNIA



**COASTAL COMMISSION**

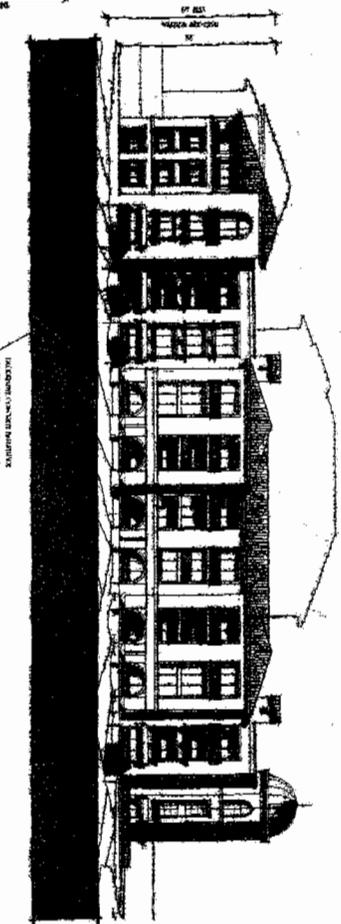
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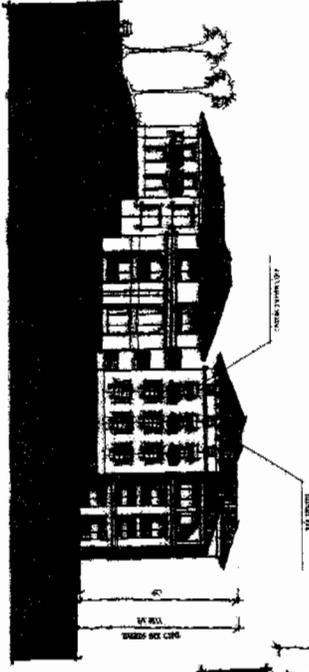


**COASTAL COMMISSION**  
S-07-085

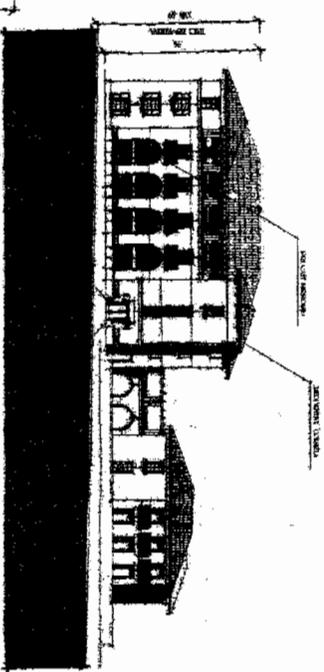
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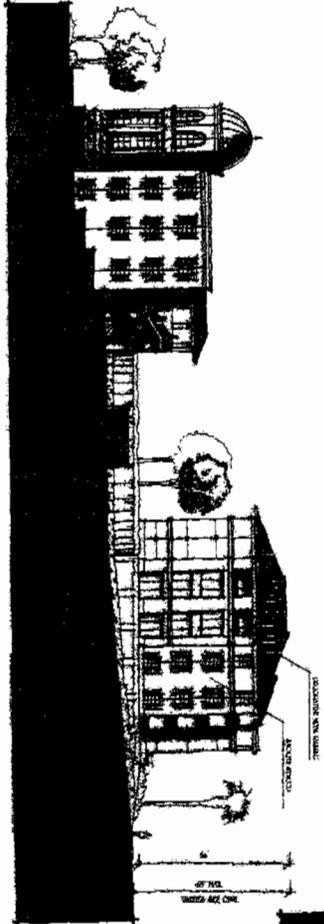
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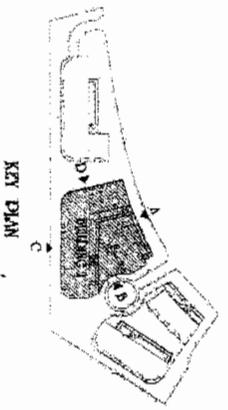
ELEVATION D



ELEVATION A



ELEVATION B



Santa Barbara  
C Condominiums



DATE: 11/11/08  
PROJECT: SANTA BARBARA  
SCALE: 1/8\"/>

BUILDING 2  
ELEVATIONS

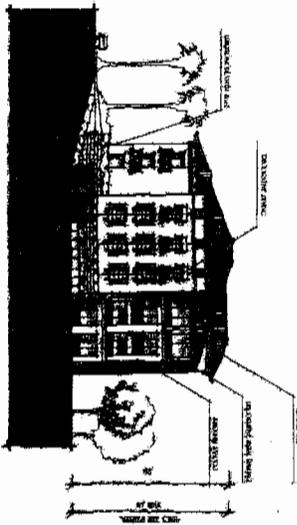
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COASTAL COMMISSION

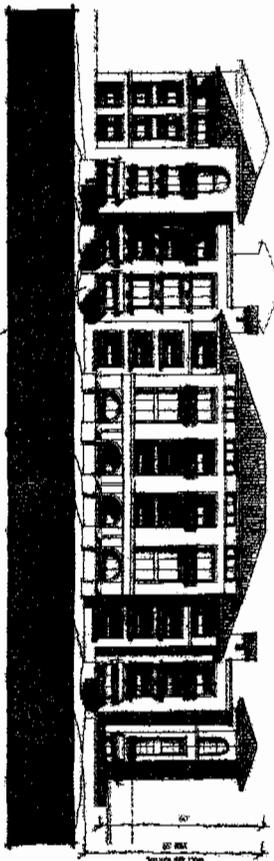
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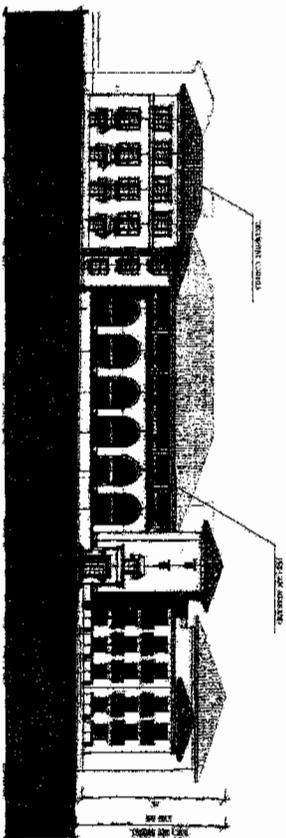
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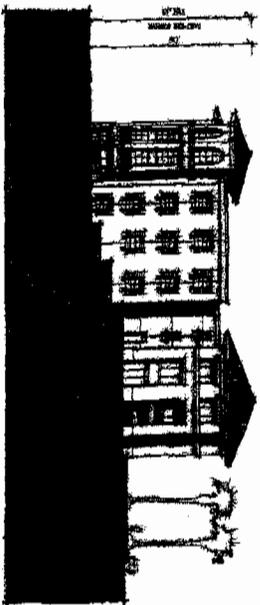
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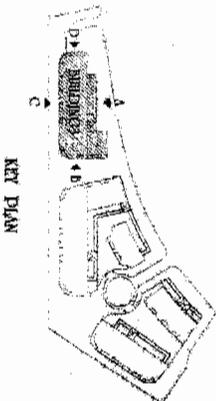
ELEVATION C



ELEVATION A



ELEVATION B



Santa Barbara  
C Condominiums



DATE: 10/1/07  
PROJECT: Santa Barbara  
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CHECKED BY: [Signature]  
SCALE: AS SHOWN  
SHEET: 6 OF 6  
PROJECT: BUILDINGS 3  
ELEVATIONS





**RECEIVED**  
South Coast Region

MAY 24 2007

CALIFORNIA  
COASTAL COMMISSION

May 21, 2007

CALIFORNIA COASTAL COMMISSION  
South Coast District Office  
200 Oceangate, 10<sup>th</sup> Floor  
Long Beach, CA 90802-4416

Attn: Ms. Teresa Henry

Re: Application No. CDP NO 5-7-085

Dear Ms. Henry:

This letter will confirm that Lennar Homes of California, Inc., a California corporation ("Lennar"), and The Newport Beach Country Club Incorporated, a California corporation ("NBCC"), have reached a mutual agreement as to the manner and means of mitigating certain concerns regarding the proposed development project (the "Project"). More specifically, we have agreed to various modifications to the Project plans by Lennar, and the provision of various disclosures, waivers, releases, and indemnities, which mitigate our concerns regarding the possibility that golf balls entering onto the Project property from the golf course will cause damage or injury. NBCC hereby formally withdraws the objections it may have expressed to the Coastal Commission in connection with the safety concerns relating to the proximity of the Project to the golf course.

THE NEWPORT BEACH COUNTRY CLUB

David C. Wooten  
Chief Executive Officer

c: Donna Kelly  
Lennar

**COASTAL COMMISSION**

5-07-085

EXHIBIT # 4

PAGE 1 OF 1

THE  
**NEWPORT BEACH**  
COUNTRY CLUB

May 30, 2007

Ms. Teresa Henry  
District Manager  
California Coastal Commission  
South Coast District  
200 Oceangate, Suite 1000  
Long Beach, CA 90802-4303

**RECEIVED**  
South Coast Region

MAY 31 2007

CALIFORNIA  
COASTAL COMMISSION

**Re: Coastal Development Permit Application 5-07-085  
Santa Barbara Condominiums, Newport Beach, CA**

Dear Ms. Henry:

Thank you for our productive meetings and discussions regarding our Coastal Development Permit (CDP) for Lennar Homes' Santa Barbara Condominiums project in Newport Beach, CA.

This letter is to revise our CDP Application 5-07-085 to include a mitigation proposal to offset the change in land use on our project site. Consistent with our conversations, Lennar Homes is proposing \$5 million to be transmitted to the Crystal Cove Alliance prior to the issuance of the CDP to fund Phase II work for Crystal Cove State Park. We understand this work will fund visitor serving uses such as the Outdoor Educational Commons (Cottages #40, 42, 43, 44) among other components of the Phase II work. We also understand this mitigation amount was authorized by the Executive Director and, as offered, will result in a favorable staff recommendation to the Commission.

Our project, on 4.25 acres of under-utilized tennis facilities, represents a negligible reduction in visitor serving land use, especially since the remaining entitlement of additional hotel rooms is maintained on the existing Marriot site. With our proposal of \$5 million, Lennar is offering an unprecedented mitigation of \$1,176,471 per acre for the reduction of visitor serving acreage for the existing Marriot site which has an entitlement for an additional 79 rooms currently unused in the existing 611 room facility.

We understand the Commission's emphasis on providing a "substantial" contribution and our presentation of this mitigation is an earnest attempt to provide a substantial contribution to visitor serving amenities at Crystal Cove State Park.

Thank you to you and your staff for working with Lennar Homes to help us move our project forward by addressing the Commission staff concerns related to visitor serving land use change.

As discussed in our meetings, we appreciate your consideration and effort to move forward with our CDP Application at the July hearing of the Commission along with the related City of Newport Beach LCPA.

Sincerely,



Donna Kelly  
Vice President, Community Development  
Lennar Homes

**COASTAL COMMISSION**

5-07-085

EXHIBIT # 5

PAGE 1 OF 1

